

TITLE 355 STATE CHEMIST OF THE STATE OF INDIANA

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Proposed Rule  
LSA Document #12-134

## DIGEST

Adds [355 IAC 4-3-0.5](#) to establish definitions of terms used in the rule. Amends [355 IAC 4-3-1](#) to eliminate the requirement for pesticide businesses to file proof of unexpired liability insurance annually. Amends [355 IAC 4-3-2](#) to clarify the minimum coverage requirements for liability insurance. Amends [355 IAC 4-3-3](#) to clarify type and scope of liability coverage required. Amends [355 IAC 4-3-4](#) concerning acceptable proof of insurance form. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)[355 IAC 4-3-0.5](#); [355 IAC 4-3-1](#); [355 IAC 4-3-2](#); [355 IAC 4-3-3](#); [355 IAC 4-3-4](#)

SECTION 1. [355 IAC 4-3-0.5](#) IS ADDED TO READ AS FOLLOWS:

**[355 IAC 4-3-0.5](#) Definitions**

Authority: [IC 15-16-5-44](#)

Affected: [IC 15-16-5-19](#); [IC 15-16-5-25](#); [IC 27-1-3-20](#)

**Sec. 0.5. The following definitions apply throughout this rule:**

(1) "Pesticide", as defined in [IC 15-16-5-25](#), includes, but is not limited to, the following products:

- (A) Fungicides.
- (B) Herbicides.
- (C) Insecticides.
- (D) Rodenticides.
- (E) Termiticides.

(2) "Pesticide business license", as defined in [IC 15-16-5-19](#), means the license issued annually by the state chemist to a for-hire:

- (A) pesticide application business; or
- (B) category 12 wood destroying pest inspection business.

(3) "Wood destroying pest" means a wood infesting pest commonly targeted for inspection prior to a real estate transfer, including:

- (A) carpenter ants;
- (B) carpenter bees;
- (C) reinfesting wood boring beetles;
- (D) termites; or
- (E) wood destroying fungus.

(State Chemist of the State of Indiana; [355 IAC 4-3-0.5](#))

SECTION 2. [355 IAC 4-3-1](#) IS AMENDED TO READ AS FOLLOWS:

**[355 IAC 4-3-1](#) Proof of liability insurance**

Authority: [IC 15-16-5-44](#)

Affected: [IC 15-16-5-48](#); [IC 15-16-5-58](#); [IC 27-1-3-20](#)

Sec. 1. Applicants for licensure as **(a) Prior to the issuance of a pesticide business license, applicants** shall furnish evidence of financial responsibility **liability insurance** acceptable to the state chemist. ~~prior to the issuance and upon annual renewal of such license or upon expiration of the proof of insurance on file with the state chemist. This requirement may be satisfied by:~~

- ~~(1) liability insurance or a surety bond issued by a company holding a certificate of authority issued by the Indiana department of insurance under [IC 27-1-3-20](#); or~~
- ~~(2) certificate of financial responsibility issued by an institution licensed to do business in the state by the~~

**(b) Pesticide business licensees must provide the state chemist with updated proof of liability insurance whenever the pesticide liability insurance expires or is modified.**

*(State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 1; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 443; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1238; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: [20071010-IR-355070484RFA](#))*

SECTION 3. [355 IAC 4-3-2](#) IS AMENDED TO READ AS FOLLOWS:

**[355 IAC 4-3-2](#) Minimum coverage amounts**

**Authority:** [IC 15-16-5-44](#)

**Affected:** [IC 15-16-5-48](#); [IC 15-16-5-58](#)

Sec. 2. **(a) The minimum coverage requirements for a pesticide application business shall be: as follows:**

- (1) General liability, three ~~five~~ hundred thousand dollars (\$300,000) (\$500,000) general liability combined single limit of liability for bodily injury and property damage; The limit is to apply to each occurrence. and**
- (2) Vehicle liability, three hundred thousand dollars (\$300,000) limit per accident This shall be required only if the insured owns, leases, rents, maintains, or uses any vehicle in connection with the use of pesticides. This type of coverage is not required if already covered by the general liability insurance. or occurrence.**
- (3) Watercraft liability, three hundred thousand dollars (\$300,000) limit per accident. This shall be required only if the insured owns, leases, rents, maintains, or uses any watercraft in connection with the use of pesticides. This type of coverage is not required if already covered by the general liability insurance.**
- (4) Aircraft liability, either of the following shall be required only if the insured owns, leases, rents, maintains, or uses any aircraft in connection with the use of pesticides:**
  - (A) Three hundred thousand dollars (\$300,000) limit per accident.**
  - (B) Both:**
    - (i) one hundred thousand dollars (\$100,000) bodily injury per person and three hundred thousand dollars (\$300,000) per accident; and**
    - (ii) one hundred thousand dollars (\$100,000) property damage per accident and one hundred thousand dollars (\$100,000) aggregate.**

**(b) The minimum coverage requirements for a category 12 wood destroying pest inspection business shall be three hundred thousand dollars (\$300,000) errors and omissions combined single limit of liability.**

*(State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 2; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1239; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: [20071010-IR-355070484RFA](#))*

SECTION 4. [355 IAC 4-3-3](#) IS AMENDED TO READ AS FOLLOWS:

**[355 IAC 4-3-3](#) Type of coverage**

**Authority:** [IC 15-16-5-44](#)

**Affected:** [IC 15-16-5-48](#); [IC 15-16-5-58](#)

Sec. 3. **(a) General liability coverage insurance shall be conditioned to provide coverage for pesticide related damage to persons or property:**

- (1) outside of the insured's care, custody, and control;**
- (2) in the insured's care, custody, and control;**
- (3) resulting from wind drift or overspray of pesticides; and**
- (4) resulting from any pesticides used by the business.**

**(b) Errors and omissions liability insurance shall provide coverage for damage to persons or property resulting from an inaccurate wood destroying pest inspection or inspection report.**

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 3; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1239; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: [20071010-IR-355070484RFA](#))

SECTION 5. [355 IAC 4-3-4](#) IS AMENDED TO READ AS FOLLOWS:

**[355 IAC 4-3-4](#) Acceptable proof of insurance form**

**Authority:** [IC 15-16-5-44](#)

**Affected:** [IC 15-16-5-48](#); [IC 15-16-5-58](#)

Sec. 4. **(a)** ~~Proof of financial responsibility~~ **liability insurance** shall be provided by the issuing **insurance** company ~~or institution on forms determined to be acceptable by the state chemist. Acceptable forms shall include,~~ but may not be limited to, a certificate of insurance.

**(b)** The certificate of insurance for general liability must include specific reference to any endorsements or exclusions that impact the coverage of pesticide activities by the business, including, but not limited to, the pesticide or herbicide endorsement on Insurance Services Office (ISO) form number CG2264, or its equivalent.

**(c)** The state chemist may be listed as a certificate holder on the certificate of insurance.

(State Chemist of the State of Indiana; Pesticide Use & Application Reg 3, Sec 4; filed Aug 3, 1976, 4:10 p.m.: Rules and Regs. 1977, p. 444; filed Jan 10, 1995, 8:45 a.m.: 18 IR 1239; readopted filed Nov 21, 2001, 10:17 a.m.: 25 IR 1269; readopted filed Sep 20, 2007, 1:46 p.m.: [20071010-IR-355070484RFA](#))

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